

EXHIBIT A

**BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE: GOOGLE DIGITAL ADVERTISING
ANTITRUST LITIGATION

MDL No. 3010

NOTICE OF POTENTIAL TAG-ALONG ACTION

In accordance with Rule 7.1(a) of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation, Meta Platforms, Inc. (f/k/a/ Facebook, Inc.)¹ writes to notify the Judicial Panel on Multidistrict Litigation of a potential tag-along action, *Klein, et al. v. Facebook, Inc.*, No. 3:20-cv-08570-JD (N.D. Cal.), listed on the attached Schedule of Potential Tag-Along Action. The docket sheet and complaints for the potential tag-along action are attached.

The *Klein* action involves two consolidated amended complaints, one brought by Meta advertisers and one brought by Meta users. *See* Dkt. Nos. 86, 87. The advertiser plaintiffs' consolidated amended complaint includes a claim (Count III) alleging that the Google-Facebook agreement violates Section 1 of the Sherman Act. *See* Dkt. No. 86. That is the same allegation that is made against Meta (and/or Google) in 22 different actions that have been centralized in *In re: Google Digital Advertising Antitrust Litigation*, 1:21-md-03010-PKC (S.D.N.Y.) ("the MDL"). The advertiser plaintiffs' consolidated amended complaint also alleges that the Google-Facebook agreement is one part of a course of conduct, which also includes Meta's acquisitions outside the relevant statute of limitations and other acts unrelated to the alleged Google-Facebook agreement, that violates Section 2 of the Sherman Act (Counts I and II). The user plaintiffs' consolidated

¹ On October 28, 2021, Facebook, Inc. changed its name to Meta Platforms, Inc.

amended complaint does not contain any allegations or claims related to the alleged Google-Facebook agreement and is unrelated to these proceedings. *See* Dkt. No. 87.

Meta moved to dismiss both consolidated amended complaints on May 20, 2021. Dkt. No. 97. On January 14, 2022, the presiding judge in *Klein*, the Honorable Lucy H. Koh,² denied Meta’s motion to dismiss the advertiser plaintiffs’ Count III, and Counts I and II to the extent those claims concern the Google-Facebook agreement at the core of several complaints in the MDL. Dkt. No. 214. As a result, the only live claims brought by the advertiser plaintiffs pending in *Klein* are the claims based on the Google-Facebook agreement that is alleged in 22 different actions in the MDL proceedings. *Id.*

Meta respectfully submits that the *Klein* advertiser plaintiffs’ consolidated amended complaint, which now only challenges the Google-Facebook agreement, should be centralized in the MDL.³ Any other claims that are unrelated to the Google-Facebook agreement should be severed by the Panel pursuant to 28 U.S.C. § 1407(a), or severed by the transferee court pursuant to Rule 21 of the Federal Rules of Civil Procedure, and remanded to the Northern District of California. *See* Order, *In re Disposable Contact Lens Antitrust Litig.*, MDL No. 2626 (J.P.M.L. June 5, 2019), ECF No. 256 (Panel severing unrelated claims pursuant to 28 U.S.C. § 1407(a)); *In re Merrill Lynch & Co. Research Rep. Sec. Litig.*, 214 F.R.D. 152, 154 (S.D.N.Y. 2003) (MDL transferee court severing claims pursuant to Rule 21 where “[t]he connection between the claims [was] tenuous” and the claims were the subject of other pending consolidated cases).

² Judge Koh was recently appointed to the United States Court of Appeals for the Ninth Circuit. On January 26, 2022, the case was reassigned to the Honorable James Donato.

³ In numerous case management statements in *Klein*, Meta noted the existence of the MDL and stated it would consider next steps regarding the overlap between the claims in *Klein* and the MDL following the court’s ruling on the motion to dismiss. *See* Dkt. Nos. 114, 139, 157, 201, 212.

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Respectfully Submitted,

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